

**Senate File 334 - Introduced**

SENATE FILE 334  
BY WESTRICH

**A BILL FOR**

1 An Act creating a special motion for expedited relief in actions  
2 involving the exercise of the right of freedom of speech  
3 and of the press, the right to assemble and petition, and  
4 the right of association, and including effective date and  
5 applicability provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **652.1 Title.**

2 This chapter may be cited as the "*Uniform Public Expression*  
3 *Protection Act*".

4 Sec. 2. NEW SECTION. **652.2 Scope.**

5 1. As used in this section:

6 a. "*Goods or services*" does not include the creation,  
7 dissemination, exhibition, or advertisement or similar promotion  
8 of a dramatic, literary, musical, political, journalistic, or  
9 artistic work.

10 b. "*Governmental unit*" means a public corporation  
11 or government or governmental subdivision, agency, or  
12 instrumentality.

13 2. Except as otherwise provided in subsection 3, this chapter  
14 applies to a cause of action asserted in a civil action against a  
15 person based on any of the following of the person:

16 a. Communication in a legislative, executive, judicial,  
17 administrative, or other governmental proceeding.

18 b. Communication on an issue under consideration or review  
19 in a legislative, executive, judicial, administrative, or other  
20 governmental proceeding.

21 c. Exercise of the right of freedom of speech or of the  
22 press, the right to assemble or petition, or the right of  
23 association, guaranteed by the Constitution of the United States  
24 or the Constitution of the State of Iowa, on a matter of public  
25 concern.

26 3. This chapter does not apply to any of the following causes  
27 of action asserted:

28 a. Against a governmental unit or an employee or agent of  
29 a governmental unit acting or purporting to act in an official  
30 capacity.

31 b. By a governmental unit or an employee or agent of a  
32 governmental unit acting in an official capacity to enforce a law  
33 to protect against an imminent threat to public health or safety.

34 c. Against a person primarily engaged in the business of  
35 selling or leasing goods or services if the cause of action

1 arises out of a communication related to the person's sale or  
2 lease of the goods or services.

3 Sec. 3. NEW SECTION. **652.3 Special motion for expedited**  
4 **relief.**

5 Not later than sixty days after a party is served with a  
6 petition, crossclaim, counterclaim, third-party claim, or other  
7 pleading that asserts a cause of action to which this chapter  
8 applies, or at a later time on a showing of good cause, the party  
9 may file a special motion for expedited relief to dismiss the  
10 cause of action or part of the cause of action.

11 Sec. 4. NEW SECTION. **652.4 Stay.**

12 1. Except as otherwise provided in subsections 4 through  
13 7, on the filing of a motion under section 652.3, all of the  
14 following apply:

15 a. All other proceedings between the moving party and  
16 responding party, including discovery and a pending hearing or  
17 motion, are stayed.

18 b. On motion by the moving party, the court may stay a  
19 hearing or motion involving another party, or discovery by  
20 another party, if the hearing or ruling on the motion would  
21 adjudicate, or the discovery would relate to, an issue material  
22 to the motion under section 652.3.

23 2. A stay under subsection 1 remains in effect until entry of  
24 an order ruling on the motion under section 652.3 and expiration  
25 of the time under section 652.9 for the moving party to appeal  
26 the order.

27 3. Except as otherwise provided in subsections 5, 6, and 7,  
28 if a party appeals from an order ruling on a motion under section  
29 652.3, all proceedings between all parties in the action are  
30 stayed. The stay remains in effect until the conclusion of the  
31 appeal.

32 4. During a stay under subsection 1, the court may allow  
33 limited discovery if a party shows that specific information is  
34 necessary to establish whether a party has satisfied or failed  
35 to satisfy a burden under section 652.7, subsection 1, and

1 the information is not reasonably available unless discovery is  
2 allowed.

3 5. A motion under section 652.10 for costs, attorney fees,  
4 and expenses is not subject to a stay under this section.

5 6. A stay under this section does not affect a party's  
6 ability to voluntarily dismiss a cause of action or part of a  
7 cause of action or move to sever a cause of action.

8 7. During a stay under this section, the court for good cause  
9 may hear and rule on all of the following:

10 a. A motion unrelated to the motion under section 652.3.

11 b. A motion seeking a special or preliminary injunction to  
12 protect against an imminent threat to public health or safety.

13 Sec. 5. NEW SECTION. **652.5 Hearing.**

14 1. The court shall hear a motion under section 652.3 not  
15 later than sixty days after filing of the motion, unless the  
16 court orders a later hearing for any of the following:

17 a. To allow discovery under section 652.4, subsection 4.

18 b. For other good cause.

19 2. If the court orders a later hearing under subsection 1,  
20 paragraph "a", the court shall hear the motion under section  
21 652.3 not later than sixty days after the court order allowing  
22 the discovery, unless the court orders a later hearing under  
23 subsection 1, paragraph "b".

24 Sec. 6. NEW SECTION. **652.6 Proof.**

25 In ruling on a motion under section 652.3, the court shall  
26 consider the pleadings, the motion, any reply or response to the  
27 motion, and any evidence that could be considered in ruling on a  
28 motion for summary judgment under rule of civil procedure 1.981.

29 Sec. 7. NEW SECTION. **652.7 Dismissal of cause of action in**  
30 **whole or part.**

31 1. In ruling on a motion under section 652.3, the court shall  
32 dismiss with prejudice a cause of action, or part of a cause of  
33 action, if all of the following are true:

34 a. The moving party establishes under section 652.2,  
35 subsection 2, that this chapter applies.

1 b. The responding party fails to establish under section  
2 652.2, subsection 3, that this chapter does not apply.

3 c. Any of the following are true:

4 (1) The responding party fails to establish a prima facie  
5 case as to each essential element of the cause of action.

6 (2) The moving party establishes that any of the following:

7 (a) The responding party failed to state a cause of action  
8 upon which relief can be granted.

9 (b) There is no genuine issue as to any material fact and the  
10 moving party is entitled to judgment as a matter of law on the  
11 action or part of an action.

12 2. A voluntary dismissal without prejudice of a responding  
13 party's cause of action, or part of a cause of action, that is  
14 the subject of a motion under section 652.3 does not affect a  
15 moving party's right to obtain a ruling on the motion and seek  
16 costs, attorney fees, and expenses under section 652.10.

17 3. A voluntary dismissal with prejudice of a responding  
18 party's cause of action, or part of a cause of action, that is  
19 the subject of a motion under section 652.3 establishes for the  
20 purpose of section 652.10 that the moving party prevailed on the  
21 motion.

22 Sec. 8. NEW SECTION. **652.8 Ruling.**

23 The court shall rule on a motion under section 652.3 not later  
24 than sixty days after a hearing under section 652.5.

25 Sec. 9. NEW SECTION. **652.9 Appeal.**

26 A moving party may appeal as a matter of right from an order  
27 denying, in whole or in part, a motion under section 652.3. The  
28 appeal must be filed not later than thirty days after entry of  
29 the order.

30 Sec. 10. NEW SECTION. **652.10 Costs, attorney fees, and**  
31 **expenses.**

32 On a motion under section 652.3, the court shall award  
33 court costs, reasonable attorney fees, and reasonable litigation  
34 expenses related to the motion in the following circumstances:

35 1. To the moving party if the moving party prevails on the

1 motion.

2 2. To the responding party if the responding party prevails  
3 on the motion and the court finds that the motion was frivolous  
4 or filed solely with intent to delay the proceeding.

5 Sec. 11. NEW SECTION. **652.11 Construction.**

6 This chapter shall be broadly construed and applied to protect  
7 the exercise of the right of freedom of speech and of the  
8 press, the right to assemble and petition, and the right of  
9 association, guaranteed by the Constitution of the United States  
10 or the Constitution of the State of Iowa.

11 Sec. 12. NEW SECTION. **652.12 Uniformity of application and**  
12 **construction.**

13 In applying and construing this chapter, consideration shall  
14 be given to the need to promote uniformity of the law with  
15 respect to its subject matter among states that enact it.

16 Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate  
17 importance, takes effect upon enactment.

18 Sec. 14. APPLICABILITY. This Act applies to a civil action  
19 filed or cause of action asserted in a civil action on or after  
20 the effective date of this Act.

21 **EXPLANATION**

22 The inclusion of this explanation does not constitute agreement with  
23 the explanation's substance by the members of the general assembly.

24 This bill enacts the "Uniform Public Expression Protection  
25 Act", which creates a special motion for expedited relief in  
26 actions involving the exercise of the right of freedom of speech  
27 and of the press, the right to assemble and petition, and the  
28 right of association.

29 The bill applies to a cause of action asserted in a civil  
30 action against a person based on the person's communication  
31 in a legislative, executive, judicial, administrative, or  
32 other governmental proceeding; communication on an issue under  
33 consideration or review in a legislative, executive, judicial,  
34 administrative, or other governmental proceeding; or exercise of  
35 the person's first amendment right on a matter of public concern.

1 The bill does not apply to causes of action against a  
2 governmental unit or an employee or agent of a governmental  
3 unit acting or purporting to act in an official capacity; by a  
4 governmental unit or an employee or agent of a governmental unit  
5 acting in an official capacity to enforce or protect against an  
6 imminent threat to public health or safety; or against a person  
7 engaged in the business of selling or leasing goods or services  
8 if the cause of action arises out of a communication related to a  
9 person's sale or lease of the goods or services.

10 The bill defines "goods or services" to not include  
11 the creation, dissemination, exhibition, or advertisement or  
12 similar promotion of a dramatic, literary, musical, political,  
13 journalistic, or artistic work, and defines "governmental unit"  
14 to mean a public corporation or government or governmental  
15 subdivision, agency, or instrumentality.

16 The bill provides that no later than 60 days after being  
17 served with a cause of action to which the bill applies, or  
18 at a later time upon showing of good cause, a party may file  
19 a special motion for expedited relief to dismiss the cause of  
20 action or part of the cause of action. The filing of the  
21 special motion stays all other proceedings between the parties,  
22 and the court has discretion to stay a proceeding involving  
23 another party if the hearing or ruling on motion would adjudicate  
24 an issue material to the motion. A hearing shall be held no  
25 later than 60 days after filing the motion, unless the court  
26 orders a later hearing to allow discovery or for good cause.  
27 A stay remains in effect until an order ruling on the motion  
28 is entered and the 30-day appeal period following the order has  
29 concluded. During a stay, the court may allow limited discovery  
30 if a party shows the information is not reasonably available and  
31 that specific information is necessary to establish whether a  
32 party has satisfied the party's burden under the bill. The court  
33 may also, for good cause, hear and rule on motions unrelated to  
34 the special motion and a motion seeking an injunction. The bill  
35 provides that a motion for costs, attorney fees, and expenses is

1 not subject to the special motion for expedited relief stay. The  
2 parties' ability to voluntarily dismiss or move to sever is not  
3 affected by the special motion for expedited relief stay.

4 The bill provides that in ruling on a special motion for  
5 expedited relief, the court shall dismiss with prejudice a cause  
6 of action, or part of a cause of action, if the moving party  
7 establishes that the bill applies, the responding party fails to  
8 establish that the bill does not apply, and either the responding  
9 party fails to establish a prima facie case as to each essential  
10 element of the cause of action or the moving party establishes  
11 that the responding party failed to state a cause of action upon  
12 which relief can be granted or there is no genuine issue as to  
13 any material fact and the moving party is entitled to judgment as  
14 a matter of law on the cause of action or part of the cause of  
15 action.

16 The bill provides that the court may award court costs,  
17 reasonable attorney fees, and reasonable litigation fees relating  
18 to the special motion to the prevailing party.

19 The bill is a uniform Act drafted by the national conference  
20 of commissioners on uniform state laws. The bill takes effect  
21 upon enactment. The bill applies to actions that are filed on or  
22 after the effective date of the bill.